

COUNTY OF ERIE

LOCAL LAW INTRO. NO. 11-2011

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Be it enacted by the Legislature of the County of Erie as follows:

SECTION 1. LEGISLATIVE INTENT

A Local Law to create exclusion zones and prohibition of certain employment-related activities by sex offenders in Erie County

SECTION 2. DEFINITIONS.

As used in this article, the following terms have the meaning indicated:

- A. Camp – shall mean a children’s overnight camp as defined in section one thousand three hundred ninety-two of the public health law, as amended, or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law, as amended.
- B. County – shall mean the County of Erie, New York
- C. Daycare Center – shall mean those establishments where care for a child is provided on a regular basis away from the child’s residence, as defined by § 390 of the New York State Social Services Law as hereinafter amended.
- D. Loiter – shall mean remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.
- E. Minor – shall mean any natural person or individual under the age of eighteen (18).
- F. Park – shall mean all existing or hereafter acquired public land designated for recreational or athletic use by the United States of America, the State of New York, the County, or any town, village, or other governmental subdivision located within the County.
- G. Playground – shall mean an outdoor area open to the public where children play, which may include, but is not limited to, equipment such as a sliding board, swing, jungle

gym, sandbox, or seesaw, or which is designated as a public play area, or which includes, but is not limited to, areas such as baseball diamonds, basketball courts, or football fields.

H. Primary Residence – shall mean the residence of the sex offender, if the sex offender has only one residence in the County, otherwise, the residence at which the sex offender resides, sleeps, or habitually lives for more days per year than another residence, if the offender has more than one such residence.

I. School – shall mean an institution for teaching children or establishment for imparting education and shall include any portion of public or private land, buildings or structures utilized for such purpose as defined by the New York State Department of Education and/or the New York State Education Law.

J. Sex Offender – shall mean any person who is convicted of a sex offense and has received a “Level II” or “Level III” designation as defined under Article 6-C of the New York State Correction Law, as hereinafter amended.

K. Sex Offense – shall mean any of the offenses set forth in subdivision two, three, or seven of § 168-a of the New York State Correction Law, as hereinafter amended.

L. Student – shall mean any person who is enrolled in a primary, secondary, or post-secondary educational institution located within the County.

M. Superintendent – shall mean the superintendent or superintendent’s designee of a public school, or the authorities in charge of a non-public school.

N. Vehicle – shall mean any vehicle, including but not limited to a vehicle for personal or work-related use, and including a watercraft or aircraft.

SECTION 3. PROHIBITIONS.

A sex offender who has been convicted of sex offense against a minor, or a person required to register as a sex offender in another jurisdiction for a sex offense involving a minor, shall not do any of the following:

a) Be present upon the real property of a public or non-public elementary or secondary school without the written permission of the superintendent, unless enrolled as a student at the school.

b) Loiter within three hundred feet of the real property boundary of a public or nonpublic elementary or secondary school, unless enrolled as a student at the school.

c) Be present on or in any vehicle or other conveyance owned, leased, or contracted by a public or nonpublic elementary or secondary school without the written permission of the superintendent when the vehicle is in use to transport students to or from a school or school-related activities, unless enrolled as a student at the school or unless the vehicle is simultaneously made available to the public as a form of public transportation.

- d) Be present upon the real property of a daycare center without the written permission of the daycare center administrator.
- e) Loiter within three hundred feet of the real property boundary of a daycare center.
- f) Be present upon the real property of a public library without the written permission of the library administrator.
- g) Loiter within three hundred feet of the real property boundary of a public library.
- h) Loiter on or within three hundred feet of the premises of any place intended primarily for the use of minors, including, but not limited to, camps, parks, or playgrounds when in use by a minor, a swimming or wading pool available to the public when in use by a minor, or a beach available to the public when in use by a minor.
- i) Operate, manage, be employed by or at, or act as a contractor or volunteer at any municipal, county, or state fair or carnival when a minor is present on the premises.
- j) Operate, manage, be employed by or at, or act as a contractor or volunteer on the premises of any children's arcade, an amusement center having coin or token operated devices for entertainment, or facilities providing programs or services intended primarily for minors, when a minor is present.
- k) Operate, manage, be employed by or at, or act as a contractor or volunteer at a public or nonpublic elementary or secondary school, daycare center, or public library.
- l) Operate, manage, be employed by or at, or act as a contractor or volunteer at any place intended primarily for use by minors, including, but not limited to, camps, parks, playgrounds, swimming or wading pools, when a minor is present.

SECTION 4. EXCEPTIONS.

A sex offender who has been convicted of a sex offense against a minor:

- a) Who, prior to the effective date of this law, has a primary residence located within three hundred feet of the real property boundary of a public or nonpublic school, daycare center, public library, or place intended primarily for the use of minors as specified in section 3, paragraph "h," shall not be in violation of section 3 for having an established residence within the exclusion zone.
- b) Who is the parent or legal guardian of a minor shall not be in violation of Section 3 solely during the period of time reasonably necessary to transport the sex offender's own minor child or ward to or from a place specified in Section 3.
- c) Who is legally entitled to vote shall not be in violation of Section 3 solely for the period of time reasonably necessary to exercise the right to vote in a public election if the polling location of the offender is located in a place specified in Section 3.

SECTION 5. PENALTIES.

Any person who knowingly violates the provisions of this local law shall be guilty of a misdemeanor.

SECTION 6. APPLICABILITY.

This law shall apply to all actions occurring on or after the effective date of this law.

SECTION 7. EFFECTIVE DATE.

This local law shall become effective immediately upon the filing with the Secretary of State pursuant to section 27 of the Municipal Home Rule Law.

SECTION 8. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

SPONSORED BY:

LEGISLATOR DANIEL M. KOZUB